

**RESOLUTION NO. 2021-092**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, APPROVING A REVISED FORM CONTRACT AS THE CITY OF COCOA FACILITY USE APPLICATION AND AGREEMENT TO BE USED BY CITY STAFF IN EVENT PLANNING FOR CITY FACILITIES WHERE SUCH FACILITIES WILL BE UTILIZED BY THE GENERAL PUBLIC; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE REVISED CITY OF COCOA FACILITY USE APPLICATION AND AGREEMENT UPON APPROVAL OF THE REQUESTED EVENT; AUTHORIZING THE CITY MANAGER TO MAKE MINOR MODIFICATIONS TO THE FORM CONTRACT WITHOUT CITY COUNCIL APPROVAL IF THE CITY ATTORNEY APPROVES THE MINOR MODIFICATIONS AS TO LEGAL FORM AND SUFFICIENCY; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to City Charter Article III, Section 5(a), the City's contract authority is vested in the City Council; and

**WHEREAS**, pursuant to City Charter Article IV, Section 3(b)(5), the City Council by this Resolution authorizes the City Manager to execute the form contract listed in section 2 herein; and

**WHEREAS**, the City Council desires to continue utilizing its Leisure Services Division to manage and provide a means for the general public to use and enjoy the City's facilities that are available for public use, including but not limited to, the Civic Center, Porcher House, Riverfront Park, the Myrt Tharpe Square Gazebo and Lee Wenner Park; and

**WHEREAS**, in the interest of consistency and liability protection, the City Council previously adopted a City of Cocoa Facility Use Application and Agreement through the adoption of Resolution 2005-131; and

**WHEREAS**, City staff recently identified a need to revise the previously adopted Facility Use Application and Agreement in order to implement general revisions to the form and to incorporate relevant terms from a supplemental Facility Use Permit Restrictions Addendum rather than use multiple forms; and

**WHEREAS**, City Staff prepared (with the assistance of the City Attorney) an updated City of Cocoa Facility Use Application and Agreement ("Form contract") for City Council

consideration and approval; and

**WHEREAS**, the City Council realizes that, on occasion, minor amendments to the Form Contract must be made to adapt such Form Contract to a particular situation, and to the extent said amendments are deemed “minor,” by the City Manager, the City Manager is authorized to make said amendments, with written approval of the City Attorney as to legal form and sufficiency, and the City Manager is also authorized to execute the amended contracts under the terms and conditions of this Resolution; and

**WHEREAS**, it is the intent and purpose of the City Council to continue to streamline the City’s various leisure service functions regarding certain City facilities and to protect the City’s interest in said facilities by requiring the execution of the attached Form Contract; and

**WHEREAS**, it is also the intent and purpose of the City Council to require City Staff to strictly comply with the terms and conditions of this Resolution and to utilize the applicable Form Contract; and

**WHEREAS**, although the City Council is hereby adopting the revised Form Contract, the City Council continues to expect that City Staff will properly analyze each and every potential function as to whether the Form Contract is appropriate to be used as a legal instrument for such function; and

**WHEREAS**, if City Staff finds over time that the attached Form Contract is not appropriate, City Staff should prepare (with the assistance of the City Attorney) another form contract for City Council approval to be used for that particular frequent or repetitive transaction; and

**WHEREAS**, the City Council deems that this Resolution is in the best interests of the public health, safety, and welfare of the citizens of the City of Cocoa, Florida.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:**

**Section 1. Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference and are deemed a material part of this Resolution.

**Section 2. Approval of Form Contract.** For the purposes of operating City of Cocoa facilities that are available for public use, the following Form Contract is hereby approved under the terms and conditions stated herein:

**City of Cocoa Facility Use Application and Agreement** – is attached hereto as Exhibit “A” and fully incorporated herein by this reference (the “Facility Agreement”), is hereby approved under the terms and conditions stated herein. The Facility Agreement shall be used for all events being held at City of Cocoa facilities that are available for public use including but not limited to the Civic Center, Porcher House, Riverfront Park, Myrt Tharpe Square Gazebo and Lee Wenner

Park. The Facility Agreement shall become effective upon the signature of the Organization/ Applicant and the subsequent written approval of the event by the City Manager or his designee responsible for approving such events.

**Section 3. Modifications of Form Contract.** At his discretion and without City Council approval, the City Manager may make “minor” modifications to the Form Contract listed in Section 2 herein when appropriate, providing said minor modifications are reviewed and approved, as to legal form and sufficiency, by the City Attorney. Any and all modifications that are not deemed minor must be approved by the City Council.

**Section 4. Repeal of Prior Inconsistent Resolutions.** All prior inconsistent resolutions adopted by the City Council of the City of Cocoa, Florida, are hereby repealed to the extent of the conflict including, but not limited to, Resolution No. 2005-131.

**Section 5. Severability.** If any section, clause, phrase, word, or provision is for any reason held invalid or unconstitutional by a court of competent jurisdiction, whether for substantive or procedural reasons, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this resolution.

**Section 6. Effective Date.** This Resolution shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

**ADOPTED** by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 28<sup>th</sup> day of September, 2021.

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Michael C. Blake, Mayor

ATTEST:

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Carie Shealy, MMC, City Clerk